

SABRINA JORDAN,)	
)	
Plaintiff)	
)	Case No.:
v.)	
)	COMPLAINT AND DEMAND FOR
STERLING JEWELERS, INC. d/b/a)	JURY TRIAL
KAY JEWELERS,)	
)	(Telephone Consumer Protection
Defendant)	Act)

SABRINA JORDAN (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against STERLING JEWELERS, INC. d/b/a KAY JEWELERS (“Defendant”):

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See *Mims v. Arrow Fin. Services, LLC*, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania
and as such, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person residing in York, Pennsylvania 17408.

4 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5 7. Defendant is a specialty jewelry company with its main office located
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7 at 375 Ghent Road, Akron, Ohio 44333.

8 8. Defendant is a “person” as that term is defined by 47 U.S.C.
9 §153(39).

10 9. Defendant acted through its agents, employees, officers, members,
11
12 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
13 representatives, and insurers.

14 **FACTUAL ALLEGATIONS**

15 10. Plaintiff has a cellular telephone number that she has had for more
16
17 than one year.

18 11. Plaintiff has only used this number as a cellular telephone number.

19 12. The phone number has been assigned to a cellular telephone service
20
21 for which Plaintiff incurs a charge for incoming calls.

22 13. Beginning in late March 2015, and continuing through June 2015,
23
24 Defendant repeatedly called Plaintiff on her cellular telephone.

25 14. When contacting Plaintiff on her cellular telephone, Defendant used

1 an automatic telephone dialing system and automated and/or pre-recorded
2 messages.

3 15. Defendant's automated messages stated, "If this is Sabrina Jordan,
4 please answer. If it is not, hang up now."

5
6 16. Plaintiff knows it was Defendant calling because she has spoken to
7 male callers who identified themselves as calling on behalf of Defendant.

8 17. Defendant's telephone calls were not made for "emergency
9 purposes."

10
11 18. In early April 2015, Plaintiff spoke with Defendant and made it clear
12 that she was unable to pay the alleged debt because she had just undergone open
13 heart surgery and was not in a financial position to make payments.

14 19. Further, Plaintiff instructed that Defendant stop calling her on her
15 cellular telephone.

16
17 20. Defendant heard Plaintiff's instructions to stop calling her cellular
18 telephone.

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20 21. Defendant, however, ignored Plaintiff's instructions to stop calling
21 and revocation of any prior consent; rather, Defendant continued to call Plaintiff on
22 her cellular telephone without her express prior permission.

23 22. Despite Plaintiff's request, Defendant continued to make automated,
24 pre-recorded calls to Plaintiff's cellular telephone.
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1 23. Between the time she revoked consent to receive calls and the filing of
2 this Complaint, Plaintiff has received, on average, eight (8) to nine (9) calls per day
3 from Defendant.

4 **DEFENDANT VIOLATED THE**
5 **TELEPHONE CONSUMER PROTECTION ACT**

6 24. Plaintiff incorporates the forgoing paragraphs as though the same
7 were set forth at length herein.
8

9 25. Defendant initiated multiple automated telephone calls to Plaintiff's
10 cellular telephone using a prerecorded voice and without her express prior consent.

11 26. Defendant initiated these automated calls to Plaintiff using an
12 automatic telephone dialing system.
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14 27. Defendant's calls to Plaintiff were not made for emergency purposes.

15 28. Defendant's calls to Plaintiff, in and after April 2015, were not made
16 with Plaintiff's prior express consent.
17

18 29. Defendant's acts as described above were done with malicious,
19 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
20 under the law and with the purpose of harassing Plaintiff.
21

22 30. The acts and/or omissions of Defendant were done unfairly,
23 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
24 lawful right, legal defense, legal justification or legal excuse.
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1 31. As a result of the above violations of the TCPA, Plaintiff has suffered
2 the losses and damages as set forth above entitling Plaintiff to an award of
3 statutory, actual and trebles damages.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, SABRINA JORDAN, respectfully prays for a
6 judgment as follows:
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- 8 a. All actual damages suffered pursuant to 47 U.S.C. §
9 227(b)(3)(A);
10 b. Statutory damages of \$500.00 per violative telephone call
11 pursuant to 47 U.S.C. § 227(b)(3)(B);
12 c. Treble damages of \$1,500.00 per violative telephone call
13 pursuant to 47 U.S.C. §227(b)(3);
14 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
15 e. Any other relief deemed appropriate by this Honorable Court.
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DATED: 07-21-15

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